

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

T & M PAINTING

and

Case 5-CA-28994

PAINTERS & ALLIED TRADES DISTRICT
COUNCIL NO. 51, INTERNATIONAL
BROTHERHOOD OF PAINTERS AND
ALLIED TRADES

Thomas P. McCarthy, Esq.,
for the General Counsel.

Jay R. Fries, Esq.,
of Baltimore, Maryland,
for the Respondent.

Robert M. Heffron, Esq.,
of Baltimore, Maryland,
for the Charging Party.

DECISION

Statement of the Case

MARTIN J. LINSKY, Administrative Law Judge. This case was tried in Baltimore, Maryland on March 12 and 13, 2001. At the conclusion of the trial and following oral argument by counsel for the General Counsel and counsel for the Respondent, I issued a bench decision pursuant to Section 102.35(a)(10) of the Board's Rules and Regulations, setting forth findings of fact and conclusions of law. In accordance with Section 102.45 of the Rules and Regulations, I certify the accuracy of, and attach hereto as "Appendix A," the portion of the transcript containing my decision. I corrected the transcript to remedy obvious errors in transcription. In addition, because the Remedy, Order and Notice to Employees were delivered orally in summary fashion, those sections of the bench decision shall be set forth more fully below.

I find that T & M Painting, Respondent herein, violated Section 8(a)(1) of the National Labor Relations Act, herein the Act, when it threatened an employee with discharge if he talked about the Union on the job.

I find that Respondent did not violate the Act in any other way and more specifically did not violate the Act when it discharged George Rusche.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to

effectuate the policies of the Act, namely, post a notice to employees attached hereto as "Appendix B."

I hereby issue the following recommended¹

ORDER

Respondent, T & M Painting, its officers, agents, successors and assigns, shall:

1. Cease and desist from

(a) Threatening to discharge employees if they talk about the Union on the job.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region post at its facility in Baltimore, Maryland and at its job sites and all other places where notices customarily are posted, copies of the attached notice marked "Appendix B."² Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees customarily are posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 16, 2000.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 4, 2001.

Martin J. Linsky
Administrative Law Judge

¹ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board, and all objections to them shall be deemed waived for all purposes.

² If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX B

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT threaten employees that they will be discharged if they talk about the Union on the job.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

T & M PAINTING

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered with any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 103 South Gay Street, 8th Floor, Baltimore, Maryland 21202-4026, Telephone 410-962-2772.